

GAHC010108182023



2024:GAU-AS:12969

THE GAUHATI HIGH COURT
(HIGH COURT OF ASSAM, NAGALAND, MIZORAM AND ARUNACHAL PRADESH)

Case No. : WP(C)/2877/2023

MAMTAZ BEGUM
W/O LT. SHAHIDUL ISLAM @ SHAHIDUL ISLAM, VILL-JOGIGHOPA, P.O.
AND P.S.-JOGIGHOPA, DIST-BONGAIGAON (ASSAM), PIN-783382,
PRESENTLY RESIDING- VILL-KUMRIPARA (KHUTAMARI), P.O.-DARIDURI,
P.S. AND DIST-GOALPARA, ASSAM, PIN-783101

VERSUS

THE STATE OF ASSAM AND 5 ORS
REPRESENTED BY THE CHIEF SECRETARY TO THE GOVT. OF ASSAM,
DISPUR, GHY-06

2:THE ASSAM POWER AND DISTRIBUTION COMPANY LTD.
REPRESENTED BY THE CHAIRMAN ELECTRICITY BOARD
BIJULI BHAWAN
PALTAN BAZAR
GUWAHATI-08

3:THE CHIEF ENGINEER (DISTRIBUTION)
BIJULI BHAWAN
PALTAN BAZAR
GHY-08

4:THE SUPERINTENDENT ENGINEER
APDCL
GOALPARA
DIST-GOALPARA
ASSAM
PIN-783101

5:THE SUB-DIVISIONAL ENGINEER
GOALPARA ELECTRICITY SUB-DIVISION

APDCL
DIST-GOALPARA
ASSAM
PIN-783101

6:THE CHIEF ELECTRICAL INSPECTOR
GOVT. OF ASSAM
MAHAVAIRAB BUILDING CHANDMARI
SOUTH SARANIA
GHY-0

For the Petitioner(s)	: Mr. M. Hussain, Advocate
	: Mr. A. K. Mollah, Advocate
For the Respondent(s)	: Mr. J. K. Goswami, SC, APDCL
	: Ms. S. Baruah, Government Advocate

Date of Hearing	: 18.12.2024
Date of Judgment	: 18.12.2024

BEFORE
HONOURABLE MR. JUSTICE DEVASHIS BARUAH

JUDGMENT AND ORDER (ORAL)

Heard Mr. M. Hussain, the learned counsel appearing on behalf of the Petitioner and Ms. S. Baruah, the learned Government Advocate appearing on behalf of the Respondent Nos. 1 and 6. I have also heard Mr. J. K. Goswami, the learned Standing counsel appearing on behalf of the Respondent Nos. 2, 3, 4 and 5.

2. The instant writ petition has been filed by the Petitioner claiming compensation on account of the death of the husband of the Petitioner due to the negligence of the Respondent Nos. 2 to 5.

3. The materials on record shows that on 18.07.2019 at about 1 PM, the husband of the Petitioner went for catching fish in Kurmi Beel of Goalpara

District and suddenly the electric live wire was torn and fell on the body of the husband of the Petitioner. Resultantly, the husband of the Petitioner died on the spot. The brother-in-law of the Petitioner thereupon filed an FIR before the Goalpara Police Station which was registered as Goalpara P.S. U.D. Case No.21/2019.

4. The post-mortem of the husband of the Petitioner was carried out on 18.07.2019 itself and it was opined that the death was on account of cardiac arrest due to electric burns which were ante-mortem in nature. Thereupon, on 02.01.2023, the Petitioner submitted a representation seeking compensation of Rs.20,00,000/- on account of the death of her husband due to electrocution. The said representation having not been considered, the instant writ petition was filed on 18.05.2023.

5. The record reveals that this Court vide an order dated 24.05.2023 issued notice. The APDCL Authorities have not filed any affidavit-in-opposition. However, the Electrical Accident Enquiry Report dated 03.07.2023 was brought on record by the Respondent No.6 wherein it was opined that the accident occurred due to the negligence on the part of the APDCL authorities due to contravention of Regulation 12(1), 13(1), 13(2), 16(1) and 35 of the Central Electricity Authority (Measures relating to Safety and Electric Supply) Regulations, 2010.

6. This Court has duly heard the learned counsels appearing on behalf of the parties.

7. Mr. J. K. Goswami, the learned Sanding counsel appearing on behalf of the APDCL submitted that though the Respondent APDCL have not filed their

affidavit-in-opposition, the Petitioner herein can at best be entitled to the amount of Rs.4,00,000/- as per the AERC (Compensation to Victims of Electrical Accidents) Regulation, 2019 (for short 'the Regulations'). He therefore submitted that any other compensation (if any), can only be decided by the Civil Court in terms with the Regulation 9 of the said Regulations.

8. This Court has duly taken note of Regulation 5 of the Regulations as well as Schedule-A wherein it is seen that the amount of compensation which the Petitioner would be entitled to in the present case would be Rs.4,00,000/-.

9. This Court further duly takes note of the submission of Mr. M. Hussain, the learned counsel appearing on behalf of the Petitioner to the effect that the Petitioner is also entitled to interest and in that regard, has placed before this Court an Office Memorandum dated 07.11.2019. The learned counsel for the Petitioner therefore submitted that the Petitioner would be entitled to the interest if their claims are not settled within a period of 120 days from the date of occurrence of the electrical accident.

10. This Court has duly taken note of that there is no mention anywhere that the electrical incident was duly reported to the APDCL Authorities or claim filed immediately. From a perusal of the writ petition, it is seen that it was only on 02.01.2023 that the Chairman of the APDCL was duly informed about the said incident claiming compensation in the form of a representation. Under such circumstances, it is the opinion of this Court that the Petitioner would be only entitled to the interest after 120 days from 02.01.2023 @12% per annum on the amount due to the Petitioner.

11. Taking into account the above, the instant writ petition stands disposed of with the following observations and directions:

(i) The Petitioner herein would be entitled to the amount of Rs.4,00,000/- in terms with Schedule-A read with Regulation 5 of the AERC (Compensation to Victims of Electrical Accidents) Regulation, 2019.

(ii) The Petitioner further would be entitled to interest post 120 days from 02.01.2023 till the date of actual payment @12% on the amount above mentioned.

(iii) The Respondent Authorities more particularly the Respondent Nos. 2 to 5 are directed to make payment of the said amount along with interest as directed above within 30 days from the date of the instant judgment provided that the Petitioner furnishes the bank details to the Respondent No.3 wherein the amount could be transferred along with the Next of the Kin Certificate.

(iv) The above adjudication and the directions so made herein above shall not preclude the Petitioner to take such other actions as permissible under law claiming further compensation.

JUDGE

Comparing Assistant